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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of	)	Examiner: Fangemonique A. Smith
Quick et al.	)	Group: 3736
For: <b>BIOPSY DEVICE WITH INNER</b>	)	Customer No.: 061808
<b>CUTTING MEMBER</b>	)	
Serial No.: 10/642,406	)	
Filed: August 15, 2003	)	<b>REQUEST FOR RECONSIDERATION</b>
	)	<b>AND RESPONSE TO NOTICE OF NON-</b>
	)	<b>COMPLIANT AMENDMENT</b>
Atty. Docket No.: SENOP-03700	)	

## CERTIFICATE OF TRANSMISSION PURSUANT TO 37 CFR §1.8

I hereby certify that this correspondence is being transmitted by facsimile to (571) 273-8300, Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Examiner Fangemonique A. Smith on June 4, 2009 in San Francisco, CA.

By: 

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants received the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed May 28, 2009, in which the Patent Office alleges that a complete listing of all the claims was not present and that pages 9-11 were missing in applicants' response filed February 24, 2009 via facsimile. A copy of the Notice is enclosed herewith.

Applicants hereby request reconsideration of applicants' response. Applicants' response contained pages 1-12, and it contained a complete listing of all the claims in the present application. The accompanying FAX cover sheet and the Transmittal made a total of 14 pages. A copy of the response as filed February 24, 2009 via facsimile is enclosed herewith. We have also included the Patent Office receipt acknowledgement Auto-Reply Facsimile Transmission which indicated receipt of 14 pages. Moreover, Applicants's fax coversheet indicates that their Amendment And Response To Office Action Mailed 12/10/2008 filed February 24, 2009 was 12 pages. The remaining two pages were applicants' Transmittal (1 page) and Fax Coversheet (1 page) making up the total of 14 pages. In further support of Applicants's position, Applicants wish to note that the Amendment and Response to Office Action as retrieved from PAIRS has a

footnote indicating that Applicants' FAXed communication received by the Patent Office included 14 pages. Applicants have included herewith the last three pages of the PAIRS version. It appears that there was an error on the part of the Patent Office when Applicants' communication filed on February 24, 2009 was scanned into the Patent Office's computer system.

Applicants herein request reconsideration of the previously filed response and that the Notice of Non-Compliant amendment mailed on May 28, 2009 be withdrawn.

Respectfully submitted,

By: 

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## UNITED STATES PATENT AND TRADEMARK OFFICE

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*Response due  
June 28, 2009*  
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Paper No.

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Application No.:	10/642,406 	Date Mailed:	05/28/2009
First Named Inventor:	Quick, Richard, L.	Examiner:	SMITH, FANGEMONIQUE A
Attorney Docket No.:	R0367-03700	Art Unit:	3736
Confirmation No.:	1491	Filing Date:	08/15/2003

Please find attached an Office communication concerning this application or proceeding.

Commissioner for Patents

PTO-B0c (Rev.08-06)

<b>Notice of Non-Compliant Amendment (37 CFR 1.121)</b>	Application No. 10/642,406		Applicant(s) QUICK ET AL.	
			Art Unit 1700	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

The amendment document filed on 24 February, 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:

☐ A. Amended paragraph(s) do not include markings.

☐ B. New paragraph(s) should not be underlined.

☐ C. Other \_\_\_\_\_.

☐ 2. Abstract:

☐ A. Not presented on a separate sheet. 37 CFR 1.72.

☐ B. Other \_\_\_\_\_.

☐ 3. Amendments to the drawings:

☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).

☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.

☐ C. Other \_\_\_\_\_.

☒ 4. Amendments to the claims:

☒ A. A complete listing of all of the claims is not present.

☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)

☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).

☐ D. The claims of this amendment paper have not been presented in ascending numerical order.

☒ E. Other: Pages 9-11 are missing.

☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only) if applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1 to 4 are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) **only** if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable /ROCHELLE C. GETER/ Telephone No: (571)272-1010

Jun 04 09 10:35a

EDWARD J. LYNCH, PATENT

4156468035

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2/24/2009 6:57:52 PM PAGE 1/001 Fax Server

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## Auto-Reply Facsimile Transmission



TO:

Fax Sender at 415 646 8035

Fax Information

Date Received:

2/24/2009 6:51:14 PM [Eastern Standard Time]

Total Pages:

14 (including cover page)

**ADVISORY:** This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received  
Cover  
Page

=====&gt;

Feb 24 00 03:52p Edward J. Lynch

415 646 8035

p.1

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## FACSIMILE

To:	Examiner Pengenourique A. Smith
Company:	Mail Stop Amendment
Fax:	571 273-8300
Confirmation Telephone:	
From:	Ruth Dex, Pamlegal
Telephone:	415 646 8029
Fax:	415 646 8035
Date:	February 24, 2009
Re:	Serial No. 10/642,405; Atty. Docket No. 58209-03700
Pages (including cover sheet):	14
Message:	Attached is Amendment and Response To Office Action Mailed 12/10/2008 (12 pages).

Please confirm receipt of this facsimile.

NOTE: Original will not follow.

## CONFIDENTIALITY NOTICE

THIS FACSIMILE TRANSMISSION IS PRIVILEGED AND CONFIDENTIAL AND IS INTENDED ONLY FOR THE REVIEW OF THE PARTY TO WHOM IT IS ADDRESSED. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE IMMEDIATELY TELEPHONE THE SENDER ABOVE TO ARRANGE FOR ITS RETURN, AND IT SHALL NOT CONSTITUTE WAIVER OF THE ATTORNEY-CLIENT PRIVILEGE.

If there is a problem with this transmission, please call us as soon as possible at 415 646 8028.

PAGE 014 \* RCVD AT 6/4/2009 1:33:05 PM [Eastern Daylight Time] \* SVR:USPTO-EFAXF-5/18 \* DNIS:2738300 \* CSID:4156468035 \* DURATION (mm-ss):05-08

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